

REGULATION IN AN UNCERTAIN WORLD

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I appreciate the opportunity to come here and speak to you today. As a Commissioner and Regulator, my usual role is to sit as a decision maker in cases. I get to review evidence and listen to testimony presented by the parties in the case. Then I must make a decision based upon the facts and the law. I get to hear from you, but you don't get to hear from me, except in the Commission's written orders. Since I am here, I would like to take the opportunity to give you a taste—a flavor, if you will—of what it is like to be a regulator in today's world.

First, a disclaimer: The opinions expressed in this presentation are mine, and mine alone, and are not those of the Commission, any Commissioner (other than myself) or any member of the Staff of the Commission. Further, nothing in this presentation should be attributed to any case or matter before the Commission, to any member of the Staff of the Commission, other Commissioners or the Commission.

I don't have to tell you we live in uncertain times and face many challenges. We must address difficult problems, and there are no easy answers. It is no different with utility regulators. We face pressures and forces from people with competing agendas who attempt to influence what we do. They try to advance their own interest, but as regulators, we are required to see beyond private interests and advance the public interest. It is this delicate balance that we must achieve as regulators that offers the greatest challenge.

What is the "public interest"? It is not what the parties are seeking in a case, although that is certainly part of it. But the public interest is more than that. Many times, in the context of a case, it is difficult for regulators to determine the public interest because the parties are adept at concealing their private goals in public interest language. I have seen companies insist that only a 12% ROE (a private interest desire) will prevent debilitating bond downgrades (a public interest concern); but then settle at 10% (exposing the public interest argument as a sham). Industrials often argue for discounts below fully allocated cost (a private interest desire), arguing that without rate reductions they will depart, shifting fixed costs to other ratepayers (a public interest argument), while offering no facts on their destination (which evidence would reveal the strength or weakness of their argument). Residential consumers often argue that utilities are not incurring costs prudently (a public interest argument) but then settle, allowing the utility to recover many of those costs they argued against (again, exposing the public interest argument as a sham). Sorting through all of the "noise" in a case makes it difficult for us as regulators to determine how to advance the public interest.

Layer on top of this our current economic situation. Credit markets are tight, which means that utilities must borrow at higher interest rates, if they can get capital at all, which increases their costs. New infrastructure is needed in all utility sectors, be it electric, gas, water,

or telecommunications. Industrials are in trouble because their orders are down and worldwide competition does not allow them to make a decent profit when they can sell their goods. Residential customers are hurting, with high unemployment rates, lower wages and an increasing elderly population on fixed incomes.

The political situation is also cause for concern. Cap and trade legislation, if passed, would increase rates in Missouri exponentially. Other environmental requirements add costs that will have to be passed along to the ratepayers. Renewable portfolio standards require utilities to expand their “green” initiatives when the technology is not here yet to support such ambitious goals and the costs of current technology is prohibitive. Legislators increasingly attempt to influence the regulators’ decisions in specific cases before the evidence in that case is even presented. As we have seen in the current health care debate, the public is becoming increasingly angry and vocal about their concerns with higher taxes, rising costs, and government intrusion into private lives, despite a national agenda that is pushing strongly for more and more government.

Factor in yet another complication: public scrutiny. Newspaper editorial boards, with their own agendas, improperly question the impartiality of the Commission, find ethical problems where there are none, and stereotype commissioners. Editorial cartoons mock individual commissioners. This erodes public confidence in regulators at a time when confidence in government generally is at an all time low.

With all of this going on, how do we as regulators function effectively to advance the public interest? I have a few thoughts:

- Collaboration. Current state statutes and rules encourage a continuing dialogue between commissioners and stakeholders. It is imperative that commissioners continue to be allowed to attend meetings like this to discuss general regulatory issues. Only when we are fully informed can we as regulators truly advance the public interest.
- Flexibility. As a Commissioner, I believe that I need as many tools as possible in my toolbox to do a good job. We must develop innovative ways to address new problems. Having the flexibility is key to formulating sound public policy and solving difficult issues. Creating obstacles and onerous regimes limiting Commissioners’ options only subverts this goal.
- Transparency. As a Commission, we must be as transparent as possible so that the public can have confidence in what we do. That includes laws and rules that provide a workable framework which recognizes that regulators are not just decision makers within the limited context of cases, and that clearly recognize our obligation to the public interest.

Hard questions and difficult issues do not lend themselves to easy answers. We are not working in a business as usual, or a business as it has been, environment. As regulators we must recognize that new thinking, new ideas and fresh approaches are going to be necessary as we address new issues which were unknown 50 years ago. These new issues include energy efficiency, demand side management, renewable portfolio standards, credit markets that are learning a new status quo, tackling unprecedented challenges in every aspect of business management, as well as the new world economy and the injection of competition which it brings at every level. That is why it is critical to have the information and the facts and evidence in cases that can guide the regulator in balancing the individual elements of the public interest.

I want to leave you with two points. First, I hope that I have conveyed that I understand the problems you face. Economic development is an important part of the public interest. Customers deserve safe and reliable service at the lowest reasonable rates. Utilities must have adequate revenue to provide that safe and reliable service as well as earn a reasonable return on their investment.

Second, I hope that I have given you an insight on the difficult job we as regulators face in balancing all of these competing interests. While it may be difficult, it is a job that I do not shy away from. Only by all of us working together can we forge new policies and solutions to the challenges we face.

Thank you.